

**CALENDAR ITEM
C24**

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PRC 7636.1

M. Schroeder

AMENDMENT OF LEASE AND ENDORSEMENT OF A SUBLEASE

APPLICANT/LESSEE/SUBLESSOR:

City of Napa

SUBLESSEE:

Tideline Marine Group, Inc., a Delaware Corporation

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Napa River, adjacent to Assessor's Parcel Numbers 003-233-003 and 003-276-008, city of Napa, Napa County.

AUTHORIZED USE:

Continued use, maintenance, and operation of an existing uncovered floating boat dock, ramp, platform, gangway, floating debris barrier, 15 steel guide piles, one 3-pile dolphin, and sheet pile retaining wall.

LEASE TERM:

25 years, beginning December 5, 2012.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

PROPOSED AMENDMENT:

Amend the lease to:

1. Authorize commercial watercraft services.
2. Revise consideration to \$800 per year for the operation and management of commercial watercraft services, with an annual Consumer Price Index adjustment, and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided in the lease, effective December 5, 2016 with the first year's

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rent payment due on May 20, 2017. Subsequent year's payment of rent will be due on December 5th.

3. Include special lease provisions related to commercial operations.
4. Authorize a sublease to Tideline Marine Group, Inc., a Delaware Corporation for the operation and management of commercial watercraft services on the boat dock, including both motorized and non-motorized watercraft for a term of seven years, beginning December 5, 2016, with the option to extend the term for an additional five years under the terms and conditions contained in the sublease.
5. Require sublessee to provide commercial liability insurance in an amount no less than \$3,000,000 per occurrence.

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6501.1; California Code of Regulations, title 2, section 2000, subdivision (b); section 2002, subdivision (a); and section 2003.

Public Trust and State's Best Interests Analysis:

On December 5, 2012, the Commission authorized a General Lease – Public Agency Use to the city of Napa (City) for the construction, operation, and maintenance of the Main Street Boat Dock and to perform 2,000 cubic yards of dredging to facilitate the construction of the Main Street Boat Dock ([Calendar C30, December 5, 2012](#)). That lease will expire on December 4, 2037.

The Applicant is now applying to amend the lease for the proposed operation and management of commercial watercraft services on the boat dock by the proposed sublessee, Tideline Marine Group, Inc., a Delaware corporation. Commercial watercraft services proposed for the boat dock include sightseeing and recreational water tours, gondola rides, dinner cruises, water taxi excursions, and kayak, canoe, skiff, and paddleboard rentals. A small kiosk will be constructed on the upland and will serve as the point of sale for management and operation of the boat dock, including sale of tickets and boat rentals.

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The existing uncovered floating boat dock, ramp, platform, and gangway are for the public use and benefit and not subject to rent. The boat dock has provided public access for motorized and non-motorized vessels along the Napa River waterways. As one of a few public boat docking facilities on the Napa River, the boat dock provides significant recreational boating opportunities for the public.

Over the last 3 years, the public has used the boat dock on a first come, first serve basis. Members of the public who would like to dock their vessel for longer than 3 hours or overnight must obtain a permit, as required by the City. The City does not allow overnight occupancy on the vessel. Only a few commercial one-day permits have been issued for a small administrative fee. The City determined there was operational viability for the commercial use of the boat dock. Several commercial operators were identified as potential operators; however, the City concluded the Tideline Marine Group, Inc., a Delaware corporation, as having the experience and ability to oversee the commercial operations of the boat dock on behalf of the City. On July 19, 2016 the City Council approved the City Manager to enter into an operating and management agreement with Tideline Marine Group, Inc., a Delaware corporation. Authorization of commercial watercraft services at the boat dock will allow for additional recreational opportunities along the Napa River for the entire Napa community as well as for visitors. Incorporating additional opportunities for outdoor recreation will increase the quality of life for the Napa residents and increase the community's education and advocacy for the Napa River. In addition, commercial watercraft service will provide alternative transportation options from other Bay Area marinas for local residents and visitors of the Napa Valley.

The upland adjoining the lease premises, identified as Assessor's Parcel Numbers 003-233-003 and 003-276-008, is owned by the Napa County Flood Control and Water Conservation District. The City owns and maintains the boat dock facilities and has the right to use the upland adjoining the boat dock by an agreement for right of entry with the owners.

The amendment of the lease and endorsement of a sublease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of seven years (with an option to extend for an additional five years) for the sublease, and a non-exclusive use provision. In addition, the sublessee is required to insure the lease premises and indemnify the State for any liability incurred as a result of the sublessee's activities thereon. The lease also contains provisions that require the lessee to remove their improvements and restore the lease

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premises at the end of the lease term. The lease requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. Further, the operation and maintenance of the boat dock provides unique access to boaters on the Napa River, facilitating public navigation, fishing, and water-related recreation.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities including the proposed commercial watercraft services are located on a portion of the Napa River that is considered the upper-limit of navigability for commercial and recreational boat traffic. The site is located within a tidally-influenced region of the Napa River and will be at a higher risk of flood exposure given projected scenarios of sea-level rise.

The risk of flood exposure for the lease premises is likely to increase with time. The region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure. As sea levels continue to rise over time, the need for such protective structures is likely to increase to preserve commercial property and infrastructure of downtown Napa from changes in erosion rates along the river.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. The uncovered floating boat dock and ramp are adaptable to variable water levels, but may require more frequent maintenance to avoid dislodgement and ensure continued function during and after storm seasons. The existing concrete retaining wall provides and will continue to provide shoreline protection from the wave wash of boat traffic, but may need reinforcement to withstand higher levels of flood

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exposure and is at risk of accelerated deterioration from higher and stronger currents and floods.

Conclusion:

For all the reasons above, Commission staff believes the amendment of this lease and endorsement of a sublease is consistent with the common law Public Trust Doctrine and is in the best interests of the State at this time.

OTHER PERTINENT INFORMATION:

1. The action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction; and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment of lease and endorsement of a sublease will not substantially interfere with the Public Trust needs and values at this location; find these actions are consistent with the common law Public Trust Doctrine and are in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

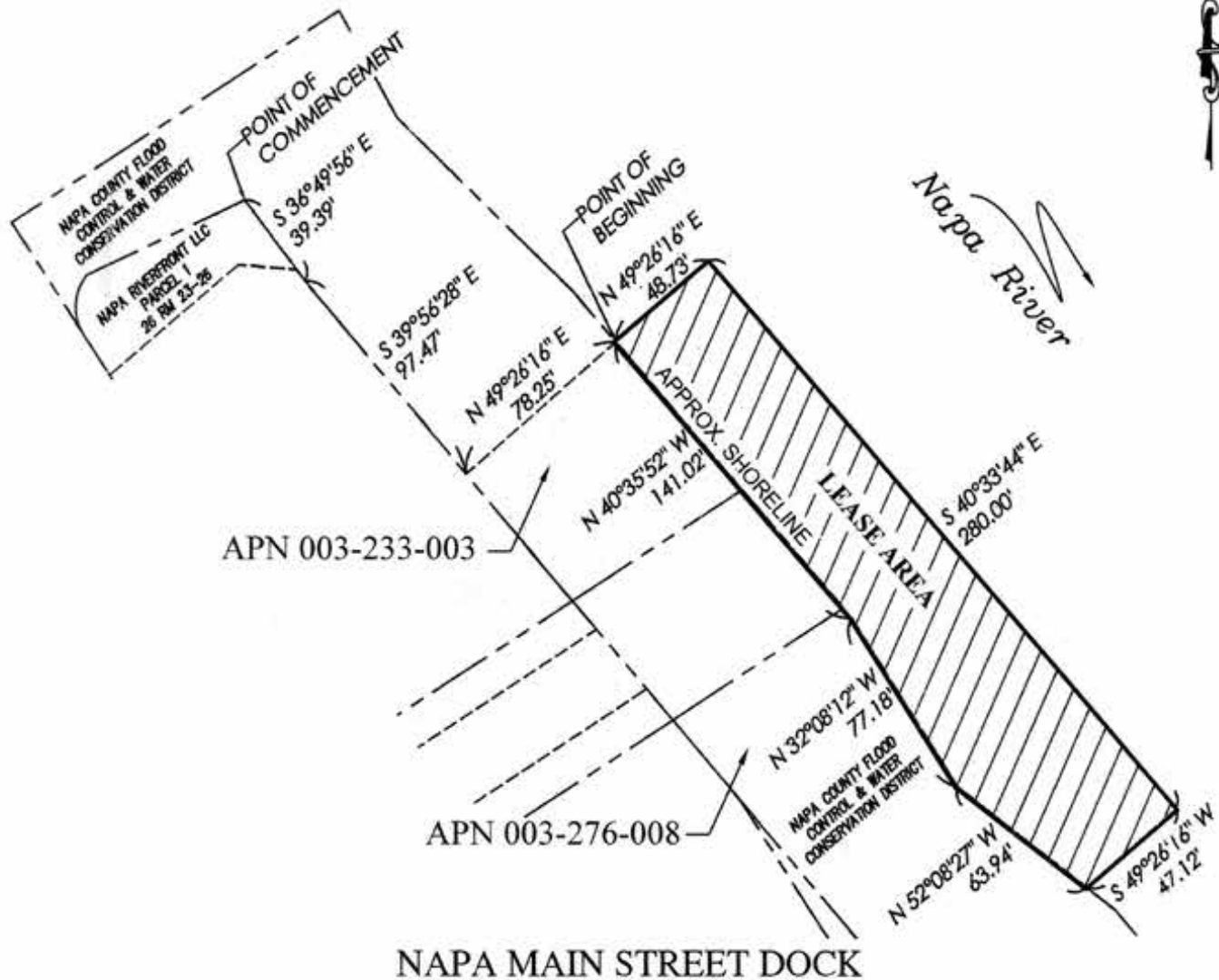
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize the amendment of Lease No. PRC 7636.1, a General Lease – Public Agency Use, effective December 5, 2016, to authorize commercial watercraft services; revise consideration for the operation and management of commercial watercraft services to \$800 per year effective December 5, 2016 with the first year's rent payment due on May 20, 2017, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent on the tenth anniversary of the lease term, as provided in the lease; include special lease provisions related to commercial operations; and require sublessee to provide commercial liability insurance in an amount no less than \$3,000,000 per occurrence; all other terms and conditions of the lease shall remain in effect without amendment.
2. Authorize, by endorsement, a sublease between the City of Napa and Tideline Marine Group, Inc., a Delaware corporation, of Lease No. PRC 7636.1, which shall be subject to the terms of Lease No. PRC 7636.1, for a term of seven years, with an option to extend an additional five years, beginning December 5, 2016.

NO SCALE

SITE



LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 7636.1
CITY OF NAPA
APN 003-233-003, -276-008
GENERAL LEASE -
PUBLIC AGENCY USE
NAPA COUNTY



MJJ 12/29/2016

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.